

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AGERE SYSTEMS INC.,

Plaintiff,

v.

ATMEL CORPORATION,

Defendant.

Case Number: 02-CV-864

Hon. Legrome D. Davis

**ATMEL CORPORATION'S RENEWED MOTIONS FOR JUDGMENT AS A
MATTER OF LAW PURSUANT TO FED. R. CIV. P. 50(b)**

Pursuant to Fed. R. Civ. P. 50(b), defendant ATMEL CORPORATION ("Atmel") hereby renews several of the motions for judgment as a matter of law that Atmel made – pursuant to Fed. R. Civ. P. 50(a) – at the close of all evidence in the recently-concluded trial. Specifically, Atmel moves this Court for an Order granting its motions for judgment as a matter of law that:

1. Claims 1, 5 and 6 of U.S. Patent No. 6,323,126 ("the '126 patent") are invalid for lack of enablement (*see* 3/18/05 Trial Transcript at 134:1-23);
2. Claims 1, 5 and 6 of the '126 patent are invalid as inoperable (*see* 3/18/05 Trial Transcript at 134:1-6, 134:24 – 135:9);
3. Claims 1, 5 and 6 of the '126 patent are invalid as indefinite in their use of the claim term "said opening" (*see* 3/18/05 Trial Transcript at 134:1-3, 135:10-17);

4. Agere failed to establish that any Atmel process infringes claims 4 or 5 of U.S. Patent No. 5,227,335 (“the ‘335 patent”), either literally or under the Doctrine of Equivalents (*see* 3/18/05 Trial Transcript at 138:5-21);
5. Claims 1-6 and 11 of the ‘335 patent are invalid for obviousness, based on each of the following references in light of the scope and content of the prior art and/or the level of ordinary skill in the art: U.S. Patent No. 4,640,004; U.S. Patent No. 4,920,071; IBM’s “Process A”; IBM’s “Process B”; the Suguro reference¹ (*see generally* 3/18/05 Trial Transcript at 140:2 – 143:2); and
6. Agere cannot rely on the alleged commercial success of any of its own products to support its contention that the ‘335 patent is non-obvious, nor can it rely on any such alleged commercial success to support a contention that any of the other patents-in-suit is non-obvious (*see* 3/18/05 Trial Transcript at 133:15-25).

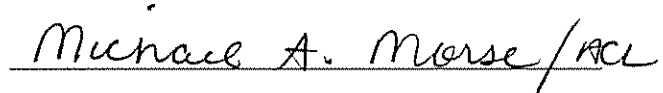
Atmel also asks the Court to grant such further relief as it deems necessary and appropriate.

¹ Suguro et al., “High Aspect Ratio Filling with CVD Tungsten for Multi-Level Interconnection,” Extended Abstracts of the 18th (1986) Int’l Conf. on Solid State Devices and Materials, p. 503.

Atmel bases its request for relief on these Renewed Motions, the memorandum in support of these Renewed Motions (to be filed on April 22, 2005), and such other materials or argument as the Court may permit. Atmel reserves the right to withdraw, on or before the date on which it files its memorandum in support of its Renewed Motions, any of the specific motions identified above.

Dated: April 5, 2005

Respectfully Submitted,

A handwritten signature in black ink that reads "Michael A. Morse / ac". The signature is written in a cursive style and is positioned above the typed name and address.

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CERTIFICATE OF SERVICE

I, Michael A. Morse, Esquire, hereby certify on this 5th day of April, 2005, that a copy of the foregoing pleading Atmel Corporation's Renewed Motions for Judgment as a Matter of Law Pursuant to Fed. R. Civ. P. 50(b), has been served upon the following persons in the manner indicated below:

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